

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :
: NO.: 1:01-CR-336-01
v. :
: JUDGE RAMBO
TYRONE SMITH, a/k/a "Manny" :

MOTION TO WITHDRAW AS COUNSEL

AND NOW comes court appointed counsel, Dennis E. Boyle, Esquire, and respectfully requests that this Court permit him to withdraw as counsel in the above referenced case and in support thereof avers as follows:

1. On July 28, 2005, undersigned counsel represented the Defendant, Tyrone Smith, at a re-sentencing hearing, which resulted in Mr. Smith being sentenced to a term of 240 months imprisonment.
2. On or about August 2, 2005, the Defendant forwarded a letter to the Honorable Sylvia Rambo claiming ineffective assistance of counsel. A copy of said letter is attached hereto as Exhibit "A".

3. In his letter, Mr. Smith accuses undersigned counsel of certain conduct in this case, questions the integrity of undersigned counsel and appears to believe that undersigned counsel is not acting in his best interest. Undersigned counsel does not concur with the allegations of the letter; however, the letter does indicate differences between Mr. Smith and counsel.

4. Under the circumstances, undersigned counsel believes that his ability to represent Mr. Smith has been compromised. Specifically, undersigned counsel does not believe that he can properly advise Mr. Smith in view of Mr. Smith's allegations and that further representation would have the appearance of impropriety.

5. Undersigned counsel also believes that there exists a conflict of interest pursuant to Pennsylvania Rule of Professional Conduct 1.7 in that Mr. Smith's accusations may require a response from undersigned counsel which could prejudice Mr. Smith in further proceedings before this Court.

6. Undersigned counsel also believes that withdraw is appropriate under Pennsylvania Rule of Professional Conduct 1.16.

7. Mr. Smith has requested that his case be appealed. The deadline to file an appeal is August 5, 2005.

WHEREFORE, undersigned counsel respectfully requests this Court grant his Motion to Withdraw as Counsel and appoint other counsel to represent the Defendant, Tyrone Smith, at subsequent proceedings.

/s/ Dennis E. Boyle

Dennis E. Boyle, Esquire
Supreme Court I.D. No. 49618
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Camp Hill, PA 17101
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Counsel For: Tyrone Smith

Dated: August 2, 2005

CERTIFICATE OF SERVICE

I hereby certify that on the date listed below I electronically filed the foregoing with the Court using the CM/ECF system, which sent notification of such filing to the following person(s) at the following email address(es):

William A. Behe, Esquire
U.S. Attorney's Office
william.behe@usdoj.gov

And I hereby certify that I have mailed by United States First Class Mail the document to the following person(s) at the following address(es):

Tyrone Smith #10924-067
FCI Schuylkill
P. O. Box 759
Minersville, PA 17954

/s/ *Penny A. Rogers*
Penny A. Rogers, Paralegal

Dated: August 2, 2005